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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,431	10/16/2001	Michael T. Andreas	MTI-31555	5688
31870 7590 03/27/2008 WHYTE HIRSCHBOECK DUDEK S.C. 555 EAST WELLS STREET SUITE 1900 MILWAUKEE, WI 53202				
EXAMINER				
PATEL, RITA RAMESH				
ART UNIT		PAPER NUMBER		
1792				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jpolmatier@whdlaw.com

Office Action Summary

Application No.

09/981,431

Applicant(s)

ANDREAS, MICHAEL T.

Examiner

RITA R. PATEL

Art Unit

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) 8,21,25,29,47,74,75,78,79,145 and 152-156 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 42-45,50-54,60,63-65,146 and 149 is/are allowed.
- 6) ☒ Claim(s) 1-6,9,10,17-20,22-24,28,30-37,55-59,62,66,70,71,77,139-144,147,148,150 and 151 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 1-6,8-10,17-25,28-37,42-45,47,50-60,62-66,70,71,74,75,77-79,145 and 152-156.

DETAILED ACTION

Response to Applicant's Arguments / Amendments

This Office Action is responsive to the amendment filed on 12/26/07. No claims have been amended, withdrawn, or canceled.

The status of claims is as follows:

Claims 1-6, 8-10, 17-25, 28-37, 42-45, 47, 50-60, 62-66, 70, 71, 74, 75, 77-79, 145, and 152-156 are pending. Claims 8, 21, 25, 29, 47, 74, 75, 78, 79, 145, and 152-156 have been withdrawn. Claims 7, 11-16, 26, 27, 34-41, 46, 48, 49, 61, 67-69, 72, 73, 76, and 80-138 have been cancelled. Claims 42-45, 50-54, 60, 63-65, 146, and 149 are considered allowable.

In Applicant's response, on page 2, lines 1-2, Applicant has underscored "pending claims" 139-156, but in line 4 Applicant indicates that claims 152-156 are withdrawn. For the purposes of clarification, claims 152-156 are withdrawn from consideration.

Applicant's arguments filed 12/26/07 have been considered, but are not persuasive. Therefore the Office maintains its rejection and claims 1-6, 9, 10, 17-20, 22-24, 28, 30-37, 55-59, 62, 66, 70, 71, 77, 147, 148, 150, and 151 are finally rejected for the reasons of record.

In response to Applicant's arguments on page 3 that "Applicant's claims do not recite a composition in the form of a slurry – nor a composition containing abrasive or metal ions" it is found that this statement is incorrect.

In at least claim 31 Applicant recites a cleaning agent capable of dispersing alumina or silica slurry particles.

Furthermore, in claim 78 Applicant claims "residual particles comprise abrasive slurry particles", and in claim 79 Applicant claims "abrasive slurry particles are selected from the group consisting of...titanium dioxide".

Next Applicant argues that Branham in claim 1 recites a cationic polymer and a divalent salt. Then Applicant states "the inclusion of either a cationic polymer or an insolubilizing agent" would effect a material change to Applicant's compositions.

In response to these statements, first of all, these features of Branham's claim 1 are not relied upon in the present rejection.

Evidence by applicant must be reasonably commensurate in scope with the claimed invention. See, e.g., In re Kulling, 897 F.2d 1147, 1149, 14 USPQ2d 1056, 1058 (Fed. Cir. 1990); In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 777 (Fed. Cir. 1983). Applicant's argument's are not commensurate in scope and thus, are not persuasive.

In response to Applicant's arguments that the Jetcheva reference fails to teach the deficiencies of the Branham reference in the 35 USC 103 rejection, these arguments are considered moot since Branham does not have these so-called deficiencies as shown *supra*.

In the rejection of claims under the 35 USC 103 rejection of Branham and Vaartstra, Applicant states that the Examiner stated "Branham...fails to indicate what specific buffering agent it is", but then in paragraph [0159] of Branham there are some buffering agents listed. Examiner concedes that this is a typo, that the Branham reference fail to indicate an ammonium hydroxide buffering agent.

In paragraph [0159] as excerpted by Applicant on page 5 of the remarks, "suitable pH control agent for use in the wetting composition of the present invention include, but are not limited to, hydrochloric acid, acetic acid, sodium hydroxide, potassium hydroxide, and the like...". As taught by Branham, this list of buffering agents is not limited to this group alone; other buffering agents may be used.

Thus, the proper 35 USC 103 rejection of Branham and Vaartstra is maintained. It would have been obvious to one of ordinary skill in the art at the time of the invention to use ammonium citrate in the invention of Branham as Branham already indicates the necessity for using a buffering agent and because Vaartstra provides motivation for using ammonium hydroxide for use in cleaning. Ammonium hydroxide is a known buffering agent used in the art for the purposes of cleaning.

Finally, in Applicant's response to the rejection of claims under 35 USC 103 of Branham and Lyons, Applicant argues that Examiner's characterization of Lyons is incorrect because nowhere does Lyons describe its composition as a "cleaning" composition.

However, Lyons clearly teaches an antimicrobial composition; antimicrobial compositions read on cleaning compositions. Antimicrobial compositions kill the growth of microbes such as bacteria, fungi, or viruses.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 10, 18-20, 23, 24, 28, 31-34, 37, 55-57, 62, 66, 70, 71, 77, 139-144, 147, 148, 150 and 151 rejected under 35 U.S.C. 102(e) as being anticipated by Branham et al. herein referred to as "Branham" (Pub. No. US 2003/002568).

Branham teaches a triggerable, water-dispersible cationic polymers for applicability in products such as wet wipes. The invention of Branham is fully capable of being used to clean a semiconductor substrate. It is well settled that the intended use of a claimed apparatus is not germane to the issue of the patentability of the claimed

structure. If the prior art structure is capable of performing the claimed use then it meets the claim. *In re Casey*, 152 USPQ 235, 238 (CCPA 1967); *In re Otto*, 136 USPQ 459 (CPA 1963). Branham teaches using suitable pH control agents (buffering agents) for use in the wetting composition to reach a desirable pH from about 3.5 to 6.5 (Paragraph [0159]). Furthermore, Branham's invention utilizes benzoic acid and salts thereof (Para. [0124]), citric acid and salts thereof (Para. [0014]), deionized water (Para. [0167]), methanol and ethanol solvents (Para. [0167]), a slurry (Para. [0112]) and corresponding silica and titanium dioxide slurry abrasives (Para. [0113]), transition metal ions, such as copper particles (Para. [0103]), and a chelating agent (Para. [0109]), among other things.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 35, 36, 58 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Branham as applied to claims above, and further in view of Jetcheva et al. herein referred to as "Jetcheva" (US Patent No. 4,655,955).

Branham teaches the claimed invention uses a citric acid salt, except fails to indicate what specific citric acid salt it is, namely Branham fails to say if it is ammonium citrate or a tetralkylammonium citrate. However, Jetcheva teaches a composition used

for cleaning/scouring of metal surfaces from corrosion products and teaches this composition includes the specific citric acid that is ammonium citrate (Abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to use ammonium citrate in the invention of Branham as Branham already indicates the necessity for using a citric acid and because Jetcheva provides motivation for using ammonium citrate for use in cleaning. Ammonium citrate is a known citric acid used in the art for the purposes of cleaning.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Branham as applied to claims above, and further in view of Vaartstra (US Patent No. 6,242,165)

Branham teaches the claimed invention uses a buffering agent, except fails to indicate if it is ammonium hydroxide or tetraalkylammonium hydroxide. However, Vaartstra teaches a composition used for cleaning of substrate surfaces and teaches this composition includes the specific buffering agent that is known as ammonium hydroxide (col. 6, lines 17-18). It would have been obvious to one of ordinary skill in the art at the time of the invention to use ammonium citrate in the invention of Branham as Branham already indicates the necessity for using a buffering agent and because Vaartstra provides motivation for using ammonium hydroxide for use in cleaning. Ammonium hydroxide is a known buffering agent used in the art for the purposes of cleaning.

Claims 9, 22, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Branham as applied to claims above, and further in view of Lyons et al. herein referred to as "Lyons" (Pub. No. US 2004/0214797).

Branham teaches the claimed invention uses an antibacterial agent, except fails to indicate if it is a sorbic acid salt consisting of any of potassium sorbate, ammonium sorbate, or tetraalkylammonium sorbate. However, Lyons teaches a composition used for antimicrobial cleaning and teaches this composition includes the specific sorbic acid that is ammonium sorbate (Abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to use ammonium sorbate in the invention of Branham as Branham already indicates the necessity for using an antibacterial agent and since Lyons provides motivation for using ammonium sorbate for use in antibacterial cleaning. Ammonium sorbate is a known antibacterial agent used in the art for the purposes of cleaning.

Allowable Subject Matter

Claims 42-45, 50-54, 60, 63-65, 146, and 149 are allowed. Applicant's remarks filed in the 7/3/07 request have been fully considered and are persuasive, thus the former 35 USC 103 rejections have been overcome.

The following is an examiner's statement of reasons for allowance: these claims incorporate pH values of about 5-6.5 for a cleaning composition in combination with specific weight percentages of the composition used therein. The former references Pregozen and Small fail to teach or suggest fairly said combination of pH values and

weight percentages of the claimed composition. Moreover, upon further search and consideration, no references were found that teach or suggest fairly said limitations of Applicant's invention as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RITA R. PATEL whose telephone number is (571)272-8701. The examiner can normally be reached on M-F: 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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